

### III, REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

The present application contains claims 1-7, 10-16, and 31-50. Claims 1, 10, and 31 are independent. Applicants have added new dependent Claims 38-50 to afford themselves a scope of protection commensurate with the disclosure. The new claims are fully supported in the specification (for example, support for new claims 38-39, 41-42 may be found, at page 7, lines 8-14; and support for new claims 40 and 43 may be found, at page 9, lines 1-5), and are believed to be allowable for the reasons to be developed below.

#### Amendment to the Claims

The limitation "analyzing time dependent changes in cross talk levels and line attenuation" has been deleted from independent claims 1, 10, and 31, and incorporated into the new claims 44-46, respectively.

New claims 47-50 are based on claims 2, 4, 11, and 13 as originally filed.

#### Objection to the Drawings

Applicant submits herewith the Replacement Sheet with the amended drawing, showing the element of a first circuit, a second circuit, a receiver, and an analyzer. The amendment is fully supported by the specification as originally filed, no new subject matter has been introduced.

#### Amendment to the Detailed Description

Applicant has amended page 5 of the application to include an amended description of the Figure.

The amendment is fully supported by the specification as originally filed, no new subject matter has been introduced.

#### Rejections under 35 U.S.C. 103 (a)

The Examiner rejected claims 1-7, 10-16 and 31-37 under 35 U.S.C. 103 (a) as being unpatentable over Levin (U.S. Patent No. 6,130,882), hereinafter referred to as Levin in

view of Zuranski (U.S. Patent No. 6,263,077), hereinafter referred to as Zuranski. Applicants respectfully traverse all art rejections.

In the Amendment entered with the RCE on July 5, 2006, Applicants stated that Levin does not teach or suggest the claimed invention of "determining and storing on a per bin basis channel frequency response and noise measurements at a first end of the channel at initialization; determining and storing a signal-to-noise measurement on a per bin basis at the first end at show time; analyzing time dependent changes in cross talk levels and line attenuation at the second end of the channel".

The Examiner repeated in the Office Action mailed September 5, 2006 that the abstract, col. 1, lines 37-43, and col. 3, lines 60-63 of Levin teaches the frequency response limitation; and col. 4, lines 1-9; col. 8 lines 10-25 of Levin teaches the noise measurement limitation.

This is not correct.

As submitted in the previous response, Levin does not teach or suggest anywhere, including the paragraphs identified by the Examiner, "determining and storing on a per bin basis channel frequency response and noise measurements at a first end of the channel at initialization".

The Examiner further repeated that col. 4, lines 1-9; and col. 8, lines 10-25 of Levin teaches "determining and storing a signal-to-noise measurement on a per bin basis at the first end at show time".

This is not correct.

At col. 3, line 67 to col. 4, line 1 Levin clearly stated "Steps 20 through 31 of the method of FIG. 2 represent an initialization of an ADSL system".

Applicants re-iterate that a person skilled in the art, when reading the description of the present invention, would readily understand the difference between the actions taking place during the initialization and during the show time. If this rejection is maintained, Applicants respectfully request the Examiner to state in detail precisely where Levin discloses these claimed features.

Levin does not teach or suggest a step of storing measurement information, both at initialization and at show time for the purpose of analyzing time dependent changes in cross talk levels and line attenuation.

The limitation of “analyzing time dependent changes in cross talk levels and line attenuation” of independent claims 1, 10, and 31 have been deleted and incorporated into new claims 44-46.

Accordingly, Zuranski does not correct the deficiencies of Levin in new claims 44-46.

Zuranski utilizes echo cancellation to reduce near-end cross-talk noise. The analyzer of Zuranski is used “to obtain co-efficients for a preequalization filter” at the transmitter, not for “analyzing time dependent changes in cross talk levels and line attenuation” as claimed by the present invention.

Furthermore, there is no teaching or suggestion in the references or prior art in general that would lead one of skill in the art to combine the teachings of Levin with Zuranski .

Before references may be combined to render a claimed invention obvious, there must be some suggestion or motivation found in the art to make the combination. *In re Dance*, 160 F.3d 1339, 1343 (Fed. Cir. 1998). “It is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements.” *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957 (Fed. Cir. 1997). Moreover, the fact that references can be combined is insufficient to meet this criterion. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998). Similarly, the fact that the combination would be well within the ordinary skill in the art, by itself, is insufficient to meet this criterion. *AI-Site Corp. v. VSI Intern., Inc.*, 174 F.3d 1308, 1324 (Fed. Cir. 1999).

For at least these reasons, the Examiner has failed to establish a *prima facie* case for non-patentability of independent claims 1, 10, and 31 presently on file.

Applicant respectfully submits that the dependent claims are novel and inventive at least by virtue of their dependencies, and the other objections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made regarding the cited art or the pending application.

Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. §103(a).

Applicant respectfully requests reconsideration of this application, based on the foregoing amendments and remarks.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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